

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LONNIE D. CHATMAN,  
Plaintiff,

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION,  
Defendant.

No. C 08-1085 MMC (PR)

**ORDER OF TRANSFER**

**(Docket Nos. 3, 6 & 7)**

On February 22, 2008, the above-titled action was opened when plaintiff, a California prisoner incarcerated at Pleasant Valley State Prison ("PVSP") in Coalinga, California, and proceeding pro se, sent a letter to the court complaining about the conditions of his confinement at PVSP. In particular, plaintiff alleges he has been placed in danger by the decision of PVSP prison officials to house an inmate from the general population with a sensitive-needs inmate.

Venue may be raised by the court sua sponte where the defendant has not filed a responsive pleading and the time for doing so has not run. See Costlow v. Weeks, 790 F.2d 1486, 1488 (9th Cir. 1986). When jurisdiction is not founded solely on diversity, venue is proper in (1) the district in which any defendant resides, if all of the defendants reside in the same state; (2) the district in which a substantial part of the events or omissions giving rise to

1 the claim occurred, or a substantial part of the property that is the subject of the action is  
2 situated; or (3) a judicial district in which any defendant may be found, if there is no district  
3 in which the action may otherwise be brought. See 28 U.S.C. § 1391(b). When venue is  
4 improper, the district court has the discretion to either dismiss the case or transfer it “in the  
5 interest of justice.” See 28 U.S.C. § 1406(a).

6 It is clear from plaintiff’s letter that he is complaining about acts alleged to have been  
7 committed at PVSP by PVSP employees. PVSP is located in Coalinga, California, which is  
8 located in Fresno County. Fresno County, in turn, is located within the venue of the Eastern  
9 District of California. See 28 U.S.C. § 84(b). As a result, venue is proper in the Eastern  
10 District of California, not in the Northern District.

11 Accordingly, in the interest of justice, the above-titled action is hereby  
12 TRANSFERRED to the United States District Court for the Eastern District of California. In  
13 light of the transfer, this Court will defer to the Eastern District with respect to plaintiff’s  
14 pending motions for appointment of counsel and application to proceed in forma pauperis.

15 The Clerk shall close the file and terminate Docket Nos. 3, 6 and 7.

16 IT IS SO ORDERED.

17 DATED: August 27, 2008

18   
19 MAKINE M. CHESNEY  
20 United States District Judge  
21  
22  
23  
24  
25  
26  
27  
28